



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/929,836	09/15/1997	RUSSELL DONOVAN ARTERBURN	6971	2308

7590

08/13/2003

ROBERT D. TOUSLEE
JOHNS MANVILLE CORPORATION
10100 WEST UTE AVENUE
LITTLETON, CO 80127

EXAMINER

HOFFMANN, JOHN M

ART UNIT

PAPER NUMBER

1731

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/929,836

Applicant(s)

ARTERBURN, RUSSELL
DONOVAN

Examiner

John Hoffmann

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,5-7, 9, 16-21 is/are allowed.
- 6) ☒ Claim(s) 2,4,8-15 and 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☒ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: withdrawal from issue

DETAILED ACTION

The application has been withdrawn from issue, because Applicant filed a response that was at least partially responsive to the Decision on Appeal (20 February 2003) and submitted evidence that it was timely filed (11 April 2003). It appears that the original copy of the response was lost by the Office. Given the lost paper, the Examiner's amendment (9 June 2003), which cancelled claims 2,4,8-15 and 21-24, is deemed premature.

Claim Rejections - 35 USC § 112

Claims 2, 8-15, 21-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Board rejected claims 11-15 under 35 USC 112, second paragraph, as failing to particularly point out and distinctly claim the subject matter which applicant regards as his inventions (see Decision on Appeal, 20 Feb 2003, page 12, third full paragraph). These claims have not been amended by Applicant, thus the claims remain indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In the Decision on Appeal: Page 12, last paragraph begins: "Various claim terms are indefinite in that they lack antecedent basis. See, e.g.,..." The term "e.g." indicates

Art Unit: 1731

that what follows are examples, and not an exhaustive list of the terms which lack antecedent basis. It appears (from both the amendment and the Remarks) that applicant only addressed only those specific examples - and did not "thoroughly review all claims to ensure that all indefiniteness problems are corrected" as suggested by the Board at page 14, lines 6-7. Therefore claim remain indefinite in that the various claim terms lack antecedent basis.

In the Decision on Appeal: page 14, lines 2-5 states "...the meanings of various terms used in the claims are not readily apparent from the prior art or from the specification and drawings, for example,...." It appears (from both the amendment and the Remarks) that applicant only addressed only the single specific example, and did not attempt to correct the deficiencies of the other "various terms" Therefore the claims remain indefinite for containing terms whose means are not readily apparent from the prior art or from the specification and drawings. Furthermore, the meaning for the given example "*channel positions*" remains "not readily apparent" as indicated by the Board.

To aid Applicant, Examiner notes that there does not appear to be antecedent basis for the following terms:

Claim 2: lines 4, "the interior", "the top"; 5 "said sidewall"; 7 "the screen having a hole area..."; 8 "the hole area per unit area of screen of two end portions".

Claim 4: line 4, "the major portion", "said metal" (if it is an intermetallic alloy, then there is no metal)

Art Unit: 1731

Claim 8: lines 1, "the hole area per unit area of screen in said mid or central portions", 2 "the hole area per unit area of said end portions", 4 "the total area".

Claim 11: lines 4, "the central portion", the hole area of the end portions per unit area of the end portions", line 6, "the thickness" (a screen can have multiple thicknesses).

Claim 21, lines 4, "said bushing" (line 3 refers to "at least one bushing" and not to "a bushing"); 7, "said sidewall"; line 10 "the hole area per unit of screen area..."; 8 "the screen located closest".

Claim 22; lines 2, "the hole area per unit of screen area..."; 3 "said at least one end portion".

Claim 23: lines 7, "said sidewalls", 8 "said second screen having a hole area per...", 10 "the hole area per unit area of screen in...", 13 "the resistance".

Claim 24: line 2, "the percentage...", line 3, "the hole area percent..."

To further aid Applicant: the following terms appear to lack meanings which are readily apparent from the prior art:

"end portion"

during the prosecution and the appeal process, Examiner took the position that an "end portion" could be any arbitrary portion that is located at an end. However it is

Applicant's and the Board's position that an "end portion" cannot be an arbitrary portion.

Therefore it must be Applicant's position that an end portion is a specific portion. It is not readily apparent from the prior art or from the specification and drawing what the

Art Unit: 1731

specific portion is. As indicated on page 7 of the Decision on Appeal: claims must be sufficiently precise to permit a potential competitor to determine whether or not he is infringing. The present claims do not meet this standard that the Board refers to.

Applicant directed Examiner's attention to US Patent 5935291. Figure 7 of that patent has a complex pattern at the end of the screen. See the attached enlargement of the drawing. Examiner has marked various rectangular subsections of the enlargement as "A", "B" etc. One of ordinary skill would not be able to determine whether the '291 screen would infringe. There are various possible sets of sub-sections that could arbitrarily be considered to be an "portion" that is at the end, for example A+B+C, B alone, A+B+C+D+E+F, A+B+D+D+F, and D+E+F. Each set is a "portion" that is at the end. However, Applicant and the Board have both indicated that one cannot simply designate any portion to be a "end portion" simply because it is at the end of the screen. Since it is not readily apparent from the prior art or from the specification and drawings what makes an "end portion" different from an arbitrary portion which is at the end of the screen, a potential competitor would not be able to determine whether or not he is infringing. And therefore the claims are not definite.

Similarly, the definitions for the terms "mid or central portion", "mid portion" and "central portion" are not readily apparent from the prior art or from the specification and drawings.

Response to Arguments

Applicant's arguments filed 11 April 2003 have been fully considered but they are not persuasive.

It is argued that "channel positions" is described in page 9 of the specification. Examiner could not find any mention of any "channel position". Therefore the rejection is not overcome.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

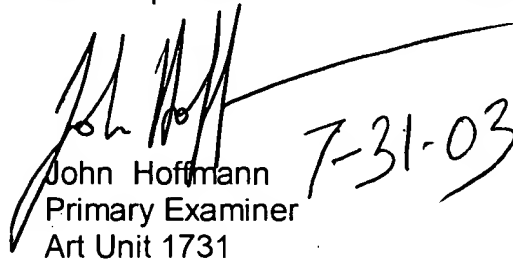
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hoffmann whose telephone number is 703-308-0469. The examiner can normally be reached on Monday through Friday, 7:00- 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Griffin can be reached on 703-308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-372-9311 for After Final communications.

Art Unit: 1731

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.


John Hoffmann
Primary Examiner
Art Unit 1731
7-31-03

jmh
July 31, 2003

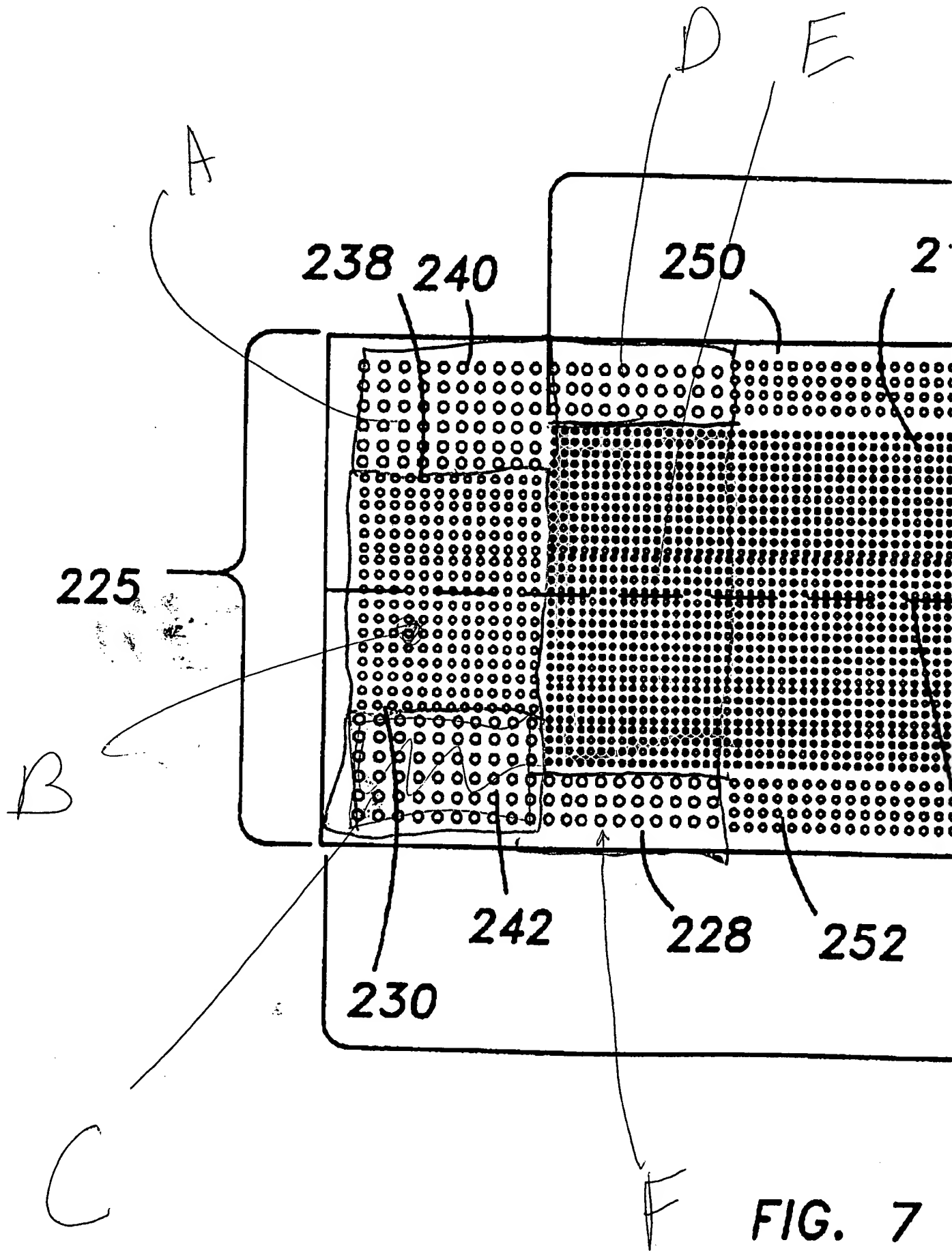


FIG. 7